**STATE OF MICHIGAN**
**COURT OF CLAIMS**

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ERIC L. VANDUSSEN,

Plaintiff,

Case No. 22-000161-MZ

v

DANA NESSEL, in her official capacity as the Attorney General of the State of Michigan,

Hon. Thomas Cameron

Defendant.

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**PLAINTIFF'S INITIAL DISCLOSURES**

NOW COMES, Plaintiff, Eric L. VanDussen, by and through his attorneys of record, MAS/STIG-NIELSEN, PLLC, and submits the following disclosures based on information currently and reasonably available. Plaintiff makes these disclosures subject to, and without

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waiving, his right to protect from disclosure of all communications protected by the attorney-client privilege and the attorney-work doctrine. In addition, Plaintiff makes the disclosures without waiving any argument he may have concerning the relevance or admissibility of, or proper weight to be accorded to any of the materials produced or information contained therein.

## I. FACTUAL BASIS OF PLAINTIFF'S CLAIMS AND DEFENSES

As alleged in Plaintiff's Verified First Amended Complaint to Compel Compliance with Michigan's Freedom of Information Act, For A Writ Of Mandamus & For Declaratory Judgment, Plaintiff, Eric L. VanDussen, is bringing this action against Defendant, Dana Nessel, in her official capacity as the Attorney General of the State of Michigan, because of violations of the Michigan Freedom of Information Act (FOIA).

At issue in this case is Plaintiff's September 6, 2022, FOIA request, which asked for:

1. All exhibits that were admitted during the preliminary examination held on or around August 29, 2022, through September 1, 2022, which in any way pertain to the Antrim County prosecutions of Shawn Fix, Brian Higgins, Eric Molitor, Michael Null and William Null.

2. All exhibits that were admitted during the preliminary examination held on or around March 3, 2021, through March 5, 2021, which in any way pertain to the Jackson County prosecutions of Joseph M. Morrison, Pete Musico and Paul Bellar.



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3. All exhibit lists related to the exhibits that were admitted during the aforementioned preliminary examinations held in Antrim County and Jackson County.

## II. LEGAL THEORIES

Plaintiff is bringing his legal action pursuant to the Michigan Freedom of Information Act ("FOIA"), at MCL 15.240(1)(b), to seek relief for Defendant's violations of the FOIA.

This action under the Michigan FOIA seeks to remedy a state agency invoking inapplicable FOIA exemptions to shield from the public certain records that Defendant's agents and employees have previously disclosed in open court, as admitted exhibits, during preliminary examination proceedings in Antrim and Jackson Counties.

Pursuant to MCR 3.305(A), Plaintiff is seeking relief in the form of a Writ of Mandamus pertaining to Defendant's FOIA violations.

Pursuant to MCR 2.605(A), Plaintiff is also seeking Declaratory relief pertaining to Defendant's FOIA violations.

## III. NAME, ADDRESS, AND TELEPHONE NUMBER OF EACH INDIVIDUAL LIKELY TO HAVE DISCOVERABLE INFORMATION

Hon. Michael Stepka
Antrim County District Court Judge
203 E Cayuga St,
Bellaire, MI 49615
(231) 533-6441



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Hon. Michael J. Klaeren
Jackson County District Court Judge
312 S Jackson Street
Jackson, MI 49201
(517) 788-4260

Hon. Thomas Wilson
Jackson County Circuit Court Judge
312 S Jackson Street
Jackson, MI 49201
(517) 788-4380

Eric L. VanDussen
P.O. Box 30
Benzonia, MI 49616
(231) 651-9189

Christy Wendling-Richards
FOIA Coordinator for Michigan Department of Attorney General
P.O. Box 30754
Lansing, MI 48909
(517) 335-7573

Defendant Dana Nessel (P51346)
G. Mennen Williams Building
525 W. Ottawa Street
P.O. Box 30212
Lansing, MI 48909
(517) 335-7622

Sunita Doddamani (P67459)
525 W. Ottawa Street
P.O. Box 30217
Lansing, MI 48909
(517) 335-7650



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P.O. Box 30217
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Thomas D. Siver (P69751)
Attorney for Defendant Michael Null
1535 44Th Street SW, Ste. 100
Grand Rapids, MI 49509
(616) 261-5800

Damian D. Nunzio (P83027)
Attorney for Defendant William Grant Null
29 Pearl Street NW, Ste. 100
Grand Rapids, MI 49503
(616) 336-8100

Nichole R. Poore-Sanchez (P83027)
Attorney for Defendant Shawn Fix
P.O. Box 294
Mt. Morris, MI 48458
(810) 394-5960

Michael Naughton (P70856)
Attorney for Defendant Brian Higgins
800 Cottageview Dr., Ste. 1080
Traverse City, MI 49684
(231) 409-8428

William S. Barnett (P39633)
Attorney for Defendant Eric Molitor
121 North Mitchell St.
Cadillac, MI 48601
(231) 775-0304

Shawn Fix



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Address and telephone number unknown at this time.

Brian Higgins
Address and telephone number unknown at this time.

Eric Molitor
Address and telephone number unknown at this time.

Michael Null
Address and telephone number unknown at this time.

William Null
Address and telephone number unknown at this time.

Andrew P. Kirkpatrick (P66842)
Attorney for Defendant Paul Bellar
503 South Jackson Street
Jackson, MI 49203
(517) 783-3500

Kareem Johnson (P71988)
Attorney for Defendant Pete Musico
505 South Jackson Street
Jackson, MI 49203
(517) 768-6883

L. Scott Ballard
Attorney for Defendant Joseph Morrison
505 South Jackson Street
Jackson, MI 49203
(517) 768-6850

Nicholas Somberg (P80416)
FORMER Attorney for Defendant Joseph Morrison
31700 Telegraph Road, Ste 210
Bingham Farms, MI 480205
(248) 270-5979



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Joseph Morrison
Jackson County Jail
212 W Wesley Street
Jackson, MI 49201
(517) 768-7900

Pete Musico
Jackson County Jail
212 W Wesley Street
Jackson, MI 49201
(517) 768-7900

Paul Bellar
Jackson County Jail
212 W Wesley Street
Jackson, MI 49201
(517) 768-7900

## IV. COPY OR DESCRIPTION BY CATEGORY AND LOCATION OF ALL DOCUMENTS DISCLOSING PARTY HAS IN ITS POSSESSION THAT SUPPORT THE CLAIM

A. Transcripts from the Antrim County preliminary examination held on August 29, 2022, through September 1, 2022, in the matter of People v William Null, Michael Null, Shawn Fix, Brian Higgins and Eric Molitor.

B. Transcripts from Jackson County District Court preliminary examination held on March 1 through 4, 2021, in the matter of People v Pete Musico, Joseph Morrison and Paul Bellar.

C. September 2, 2022, Traverse City Record article written by reporter Mardi Link, which is entitled: "Undercover Mark" testifies in kidnap hearing;

D. September 6, 2022, FOIA request Plaintiff submitted to Defendant;



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E. September 6, 2022, Order endorsed by Antrim County District Court Judge Michael Stepka, in the matter of People v William Null, Michael Null, Shawn Fix, Brian Higgins and Eric Molitor;

F. September 28, 2022, written FOIA response Defendant's FOIA Coordinator issued to Plaintiff and all public records that Defendant partially granted to Plaintiff.

## V. COPY OR DESCRIPTION BY CATEGORY AND LOCATION OF ALL DOCUMENTS DISCLOSING PARTY DOES NOT HAVE IN ITS POSSESSION THAT SUPPORT THE CLAIM

Unknown number of public records Defendant's agents withheld from Plaintiff, which are in the possession of Defendant.

## VI. RELIEF REQUESTED AND COMPUTATION OF EACH CATEGORY OF DAMAGES CLAIMED

Plaintiff is requesting the following relief and damages:

(a) assign this action for hearing, trial or argument at the earliest practicable date, pursuant to MCL 15.240(5), and expedite this action in every way;

(b) issue a Writ of Mandamus compelling Defendant to immediately produce to Plaintiff a complete description of all public records or information on a public record that Defendant separated or deleted under section 14 of the FOIA, and impose a fine not exceeding $250.00 upon Defendant pursuant to MCL 600.4411;

(c) issue a declaratory judgment finding that Defendant has violated the FOIA and Order Defendant to forthwith provide detailed affidavits describing with particularity each specific public record that they withheld from Plaintiff;



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(d) issue a preliminary injunction and order Defendant to cease their withholding of all public records sought by Plaintiff within his September 6, 2022, FOIA request,

(e) award punitive damages to Plaintiff, pursuant to MCL 15.240(7), for Defendant's arbitrary and capricious withholding of public records;

(f) apply the full penalties against Defendant, which are available under MCL 15.234(9) and MCL15,240b;

(g) award attorneys' fees and costs under MCL 15.240(6); and

(h) award any other relief this Court determines to be just and equitable to remedy the Defendant's improper utilization of FOIA exemptions, which necessitated the filing of this lawsuit.

## VII. ANTICIPATED SUBJECT AREAS OF EXPERT TESTIMONY

*Jane Doe*, area of expertise: Michigan FOIA, the obligations and responsibilities of public bodies thereunder and the parameters of privileges from otherwise mandatory disclosure.

These disclosures will be supplemented as additional documents and information are provided or obtained.

Respectfully submitted,

MAS/STIG-NIELSEN, PLLC

Date: November 9, 2022

*/s/ Frederik F. Stig-Nielsen*
Frederik F. Stig-Nielsen (P79290)
MAS/STIG-NIELSEN, PLLC
Attorneys for Plaintiff



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